G 15 1986 COMPLETED 10 Y 1.1/5: 99-379

Calendar No. 785

99TH CONGRESS 2d Session | SENATE | REPORT 99-379

JENS-PETER BERNDT

AUGUST 6 (legislative day, AUGUST 4), 1986.—Ordered to be printed

Mr. THURMOND, from the Committee on the Judiciary, submitted the following

REPORT

ORIGINAL

[To accompany S. 2271]

The Committee on the Judiciary, to which was referred the bill (S. 2271) for the relief of Jens-Peter Berndt, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Jens-Peter Berndt.

STATEMENT OF FACTS

The beneficiary is 22 years old and was a native and citizen of East Germany. He was admitted to the United States on December 30, 1984. He applied for political asylum which was granted on January 8, 1985. He filed a petition on March 14, 1986 to be accorded the status of a lawful permanent resident. A visa number under refugee admissions will not be available until October 1, 1986. He has been issued a refugee travel document and since May 1985 he has traveled to Canada, Australia, and Monaco for swimming competition.

He is attempting to become part of the United States Swim Team for Good will games and eventually for the next Olympics, but cannot participate in trials competition unless he is a citizen of the United States. He was adopted on September 25, 1985, at the age of 22, by the interested parties, Thomas L. Patterson and Lucy E. Patterson.

71-007 O

CDD 3e

1 BEST COPY AVAILABLE

A letter, with attached memorandum, dated June 18, 1986, to the Chairman of the Senate Committee on the Judiciary, from the Immigration and Naturalization Service with reference to the bill, read as follows:

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, DC, June 18, 1986.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (S. 2271) for the relief of Jens-Peter Berndt, there is attached a memorandum of information concerning the beneficiary.

The bill would waive the provisions of the Immigration and Nationality Act relating to labor certification and relating to persons who were members of the Communist Party and would grant the beneficiary permanent residence in the United States as of the date of its enactment. It would also direct that a visa number deduction be made from the number of refugee admissions. It should be noted that the bill does not call for the payment of the required visa fee.

The bill would also waive the required periods of residence and physical presence within the United States for naturalization purposes; that the beneficiary not be considered ineligible for citizenship by affiliation in a Communist organization; and that the beneficiary, if otherwise eligible, may be naturalized at any time after the date of enactment of this act.

Sincerely,

(S) MARVIN T. ELY
(For Greg Leo, Director, Congressional and Public Affairs).

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE: S. 2271

The beneficiary, Jens-Peter Berndt, a native and citizen of East Germany, was born on August 17, 1963. He claims to have been a low ranking officer in the National Peoples Army, with duties as sport instructor, participating in national and international swimming competition as a member of the army sport club and the East German national team. He resides in Tuscaloosa, Alabama where he is attending the University of Alabama. The beneficiary is receiving a full athletic (swimming) scholarship and a $1,900 Pell Grant to attend the university. He is not employed and claims no assets or liabilities. His sister and natural father reside in East Germany. He was adopted on September 25, 1985, at the age of 22, by the interested parties, Thomas L. Patterson and Lucy E. Patterson.

The beneficiary was admitted to the United States on December 30, 1984 as a visitor and authorized to remain until June 30, 1985. At that time he was a member of the

BEST COPY AVAILABLE

East German swimming team who had come to the United States for international competition. On January 7, 1985 in Oklahoma City, Oklahoma, the beneficiary applied for political asylum which was granted on January 8, 1985. He filed a petition on March 14, 1986 to be accorded the status of a lawful permanent resident. A visa number under refugee admissions will not be available until October 1, 1986. The beneficiary has been issued a refugee travel document and since May 1985 he has traveled to Canada, Australia, and Monaco for swimming competition.

The beneficiary is attempting to become part of the United States Swim Team for the Goodwill games and eventually for the next Olympics, but cannot participate in trials competition unless he is a citizen of the United States. Early naturalization is necessary if he is to compete in international swim competition as a respresentative of the United States. As of this date, he has been in competition as a representative of the University of Alabama or on personal invitation.

The interested parties, Thomas L. Patterson and his spouse, Lucy E. Patterson, are natives and citizens of the United States. He was born November 8, 1942 in Gadsden, Alabama. He obtained a masters degree in Engineering Mechanics from the University of Alabama and is currently employed as president of SEAKO, Inc., a computer firm, in Birmingham, Alabama. He receives a salary of about $50,000 a year. She was born October 28, 1942 in Bessemer, Alabama. She received a bachelor of science degree in Home Economics from the University of Alabama, and is employed part time with SEAKO, Inc., earning a salary of about $13,000 a year. They have two daughters, born September 23, 1968 and September 26, 1970, who are also natives and citizens of the United States and reside with them in Birmingham, Alabama. They claim assets in the amount of $1,949,500 and liabilities in the amount of $469,600. The interested parties claim that the beneficiary is not dependent upon them for support. The interested parties thought if they adopted the beneficiary that he could get an immediate relative visa, but he was not an orphan and was over the age of 16 years.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, April 10, 1986.

Hon. ALAN K. SIMPSON,
Chairman, Subcommittee on Immigration and Refugee Policy, Washington, DC.

DEAR MR. CHAIRMAN: On April 8, 1986, I introduced S. 2271, a bill for the relief of Jens-Peter Berndt. The bill would grant permanent residence to Mr. Berndt and expedite his naturalization as a citizen of the United States.

Mr. Berndt, or Peter, is 22 years old and a native of the German Democratic Republic, better known as East Germany. On January 7, 1985, while in Oklahoma City as a member of the East German

BEST COPY AVAILABLE

swim team, Peter requested and was granted political asylum in the United States. He made that courageous decision, at great personal risk, because he wanted to become an American and live in freedom.

Peter has been legally adopted by Mr. and Mrs. Thomas L. Patterson of Birmingham, Alabama, and is currently enrolled as a sophomore at the University of Alabama in Tuscaloosa, where he is a member of the swim team and has established an outstanding academic record. He is an amateur swimmer of Olympic caliber and is a former World Record holder in the 400 meter individual medley.

It is Peter's desire, and that of the U.S. Olympic Swimming Team, that he compete for the United States in the 1988 Olympic Games. However, in order to do so, the rules of the U.S. Olympic Committee require that he be a U.S. citizen. Furthermore, he must be a citizen in order to compete in two key international meets this summer, the World Championships in Spain and the Goodwill Games in Moscow, both of which are extremely important preliminary steps to qualifying for the 1988 Olympic Team. The U.S. team for both meets to be held this summer will be selected June 22–28, 1986, in Orlando, Florida, and Peter needs to have his citizenship by that time.

Without private relief legislation, Peter would not satisfy the residency and physical presence requirements for naturalization under Section 316 of the Immigration and Nationality Act until 1990. My bill provides that he be deemed to have satisfied the residency and physical presence requirements of the Act. It also provides that Peter, who is lawfully in the U.S. on asylum status, be admitted for permanent residence, as that is a prerequisite for naturalization. Finally, the bill provides that Peter will not be ineligible for U.S. citizenship because of his former life in a communist country.

I believe Peter will make an outstanding citizen, and that he will represent the United States in international competition in a manner that will make us all very proud. I urge you to assist in having the bill moved through the committee process as expeditiously as possible, so that Peter may compete for a position on the U.S. team when it is selected June 22–28.

As always, thank you for your courtesy and consideration.

With highest regards, I remain,

Sincerely,

JEREMIAH DENTON, *U.S. Senator.*

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, May 16, 1986.

Hon. ALAN K. SIMPSON,
Chairman, Subcommittee on Immigration and Refugee Policy, Washington, DC.

DEAR AL: Enclosed is a resolution which was adopted by the Legislature of the State of Alabama on April 28, 1986, requesting the United States Congress to pass legislation to assist Jens-Peter

BEST COPY AVAILABLE

Berndt in obtaining citizenship. I commend this resolution to you as an expression of the strong support which Peter has in the State which would be his home.

I hope that the resolution may be considered on Peter's behalf as the Subcommittee processes S. 2271.

As always, I appreciate your courtesy and consideration.

With highest regards, I remain,

Sincerely,

JEREMIAH DENTON, *U.S. Senator.*

[Senate of Alabama, Resolution]

MEMORIALIZING THE U.S. CONGRESS TO ENACT SPECIAL LEGISLATION GRANTING CITIZENSHIP TO JENS-PETER BERNDT-PATTERSON OF BIRMINGHAM, AL

(By: Senators Bailey, Bedford, Aldridge, Amari, Barron, Bedsole, Bennett, Bishop, Cabaniss, Cooley, Corbett, Covington, deGraffenried, Denton, Dial, Dixon, Drinkard, Ellis, Figures, Foshee, Goodwin, Hand, Hilliard, Holmes, Horn, Langford, Little, Menton, Mitchem, Parsons, Sanders, B. Smith, J. Smith, Strong and Teague)

Whereas, Jens-Peter Berndt is a native of Potsdam, East Germany, who lived for 21 years within a few miles of the West German border and the heavily guarded fences that serve as barriers to personal freedom for East German citizens; and

Whereas, Peter Berndt, however, lived a life void of the deprivations suffered by the majority of the East German people, as he was one of his nation's most famous athletes and former world record holder in the 400-meter individual medley; and

Whereas, though financially secure and otherwise enjoying the "good life," it was the lack of personal freedom that led Jens-Peter Berndt to his irreversible decision, on January 7, 1985, to ask for asylum in the United States; and

Whereas, Peter Berndt, the first East German athlete ever to defect to our country, is now a student and member of the University of Alabama swim team where he has made extensive contributions, taking second place in last year's NCAA meet in the 400 Individual Medley and also in the 200 IM; and

Whereas, now the adopted son of Tom and Becky Patterson of Birmingham, Alabama, Jens-Peter Berndt-Patterson is seeking a means to compete in the 1988 Olympics as an American citizen, a process that normally takes a period of five years; and

Whereas, though a berth in the 1988 Olympics would be virtually assured by this declaration of West German citizenship, for which he is eligible, it is Peter's earnest desire to compete as a representative of our nation, now his, and that of his adoptive parents; and

Whereas, Jens-Peter Berndt-Patterson is a fine young man, an exceptional athlete regarded as one of the most promising swimmers in the world, and a young man of great courage as evidenced by his heart-rendering decision to forever leave not only his homeland, but his family as well, for whose safety and well-being he yet fears; his desire for freedom was strong, and just as strong is his

BEST COPY AVAILABLE

desire to compete as an American, and for America, in the 1988 Olympics; Now therefore,

Be it resolved by the Legislature of the State of Alabama, both houses thereof concurring, That we hereby most earnestly beseech of the United States Congress the special dispensation of private legislation granting American citizenship to Jens-Peter Berndt-Patterson of Birmingham, Alabama, to enable him to compete as an American in the 1988 Olympic Games.

Be it further resolved, That copies of this resolution be dispatched forthwith to the presiding officers of the United States Senate and the House of Representatives, and to the members of the Alabama Congressional Delegation that they may be advised of the Legislature's sincere desire in the case for citizenship for Jens-Peter Berndt-Patterson of Alabama.

I hereby certify that the above is a true, correct and accurate copy of Senate Joint Resolution No. 245, adopted by the Legislature of Alabama on April 28, 1986.

McDOWELL LEE, *Secretary of Senate.*

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, April 28, 1986.

Hon. JEREMIAH DENTON,
U.S. Senate, Washington, DC.

DEAR JERRY: I wanted to inform you that the departmental report from the Immigration and Naturalization Service has been ordered on your bill, S. 2271, for the benefit of Jens-Peter Berndt.

I have also asked the staff to place this bill on the agenda for the next Subcommittee meeting which will call to consider private immigration bills.

Ken Fulp brought Mr. Berndt by the Subcommittee offices recently, and members of the staff had an opportunity to interview him. The Subcommittee has also received some phone calls from students at the University of Alabama objecting to the proposed legislation. They expressed the view that Mr. Berndt had already received "special treatment" at the University since he wasn't expelled or otherwise punished for the cheating episode, and that he wasn't entitled to more "special treatment" in the U.S. Congress.

As I may have mentioned to you, when the Subcommittee takes favorable action on a private bill which doesn't meet our historical precedents—to avoid extreme hardship to a U.S. citizen or permanent resident alien—and if that legislation does not pass the House of Representatives, we generally consistently ask the sponsor to agree not to reintroduce the legislation in a subsequent Congress.

We have ordered the report, and I enclose a copy of the Senate Rules of Procedure for private immigration bills.

It is always a pleasure to work with you, Jerry.

With best personal regards,

Most sincerely,

ALAN K. SIMPSON, *U.S. Senator.*

BEST COPY AVAILABLE

U.S. SWIMMING,
Colorado Springs, CO, April 10, 1986.

Senator ALLAN K. SIMPSON,
Chairman, Subcommittee on Immigration and Refugee Policy,
Washington, DC.

DEAR SENATOR SIMPSON: I am writing to you on behalf of the Board of Directors of United States Swimming regarding the possibility of expediting United States citizenship for Jens-Peter Berndt, a citizen of the German Democratic Republic who has currently been granted asylum in the United States of America.

Peter is a gifted swimmer and wishes to try out to represent the United States in the 1986 World Championship and the 1988 Olympic Games. He, of course, will have to compete in trials in order to make the team and he may not enter the trials unless he is a United States citizen and eligible to represent the USA in amateur international competition.

As a former world record holder, there is a very good chance that Peter could make our teams and of course, this could strengthen the United States' team.

As a citizen of the GDR, Peter was not allowed to compete in Los Angeles in 1984, but following his defection to the United States, he resumed his swimming career and currently was second to a Brazilian in the recent NCAA championships, making him the fastest person in the NCAA 400 yard individual medley that might represent the United States.

At our meetings this winter, our Board of Directors voted to lend support to Peter's efforts to gain early citizenship, both from a human and athletic point of view. We hope you will be able to assist him in this regard.

Sincerely,

RAY B. ESSICK, *Executive Director.*

UNIVERSITY OF ALABAMA SWIMMING,
DEPARTMENT OF ATHLETICS,
University, AL, April 10, 1986.

Senator ALAN K. SIMPSON,
Chairman, Subcommittee on Immigration and Refugee Policy,
Washington, DC.

DEAR SENATOR SIMPSON: I am writing to urge you to support Jens Peter Berndt in his quest for early citizenship.

Peter defected in January 1985 entering The University of Alabama later that month. I had never met him prior to that month.

Since the moment of his arrival he has shown nothing but excitment about becoming a United States Citizen.

The reason for his request for early citizenship is to allow him to compete in International competition. He watched his World Record in the 400 Individual Medley fall and a Gold Medal go to a Canadian without challenge due to his countries boycott of the 1984 Olympics. (The United States did not win a medal Gold, Silver, or Bronze in this event!)

As the 1984 Olympic Swimming Head Coach I can assure you we need Peter in this event to strengthen our Olympic Team. He cur-

BEST COPY AVAILABLE

rently placed 2nd at the N.C.A.A. Championship in the 400 yard short course equivalent of his Olympic Event. I might add there was no American above fourth place.

I seems tragic to me that Peter a World Class Athlete will be kept our of International Competition for the rest of his career if he is not granted early citizenship. IIe is willing to make the sacrifice however if necessary to become an American. If his only interest was The Olympics he could swim at once for West Germany.

Thank you for your time I hope you will support Senate Bill 2271.

Sincerely,

DON GAMBRIL,
Head Coach University of Alabama,
Head U.S. Olympic Team Coach, 1984.

FOR THE RELIEF OF JENS-PETER BERNDT

By Mr. DENTON (for himself and Mr. HEFLIN):

S. 2271. A bill for the relief of Jens-Peter Berndt; to the Committee on the Judiciary.

Mr. DENTON. Mr. President, I rise today to introduce legislation for the relief of Jens-Peter Berndt. The bill would grant permanent residence to Mr. Berndt and expedite his naturalization as a citizen of the United States.

Mr. Berndt, or Peter, is 22 years old and a native of the German Democratic Republic, better known as East Germany, a Communist-bloc state. On January 7, 1985, while in Oklahoma City as a member of the East German swim team, Peter requested and was granted political asylum in the United States. He made that courageous decision, at great personal risk, because he wanted to become an American and live in freedom.

Peter was fortunate to be legally adopted in the summer of 1985, by Mr. and Mrs. Thomas L. Patterson of Birmingham, AL. The Pattersons have provided him with the love, family life and guidance that have been so immeasurably important in assisting Peter in making the transition to American life.

Peter is currently enrolled as a sophomore at the University of Alabama in Tuscaloosa, where he is a member of the swim team and has established an outstanding academic record. He is an amateur swimmer of Olympic caliber, and is a former world record holder in the 400-meter individual medley. Unfortunately, Peter was prevented from competing in the 1984 Summer Olympic Games in Los Angeles due to the Soviet-sponsored boycott of the Games which was joined by East Germany.

It is Peter's desire and that of the U.S. Olympic Swimming Team, that he compete for the United States in the 1988 Olympic games. However, in order to do so, the rules of the U.S. Olympic Committee require that he be a U.S. citizen. Furthermore, he must be a citizen in order to compete in a number of key international swimming meets

BEST COPY AVAILABLE

which begin this summer and are important preliminary steps to qualifying for the 1988 Olympic Team.

Without private relief legislation, Peter would not satisfy the residency and physical presence requirements for naturalization under section 316 of the Immigration and Nationality Act until 1990. The bill I am introducing provides that he be deemed to have satisfied the residency and physical presence requirements so that he may be naturalized at the earliest possible date. This will permit Peter to represent the United States in upcoming international competition and the 1988 Olympics.

The bill also provides that Peter be admitted for permanent residence in the United States, as that is a prerequisite for naturalization. Although he is lawfully present in the United States by reason of his asylum status, he has not yet been granted permanent resident status.

Finally, the bill provides that Peter will not be ineligible for U.S. citizenship because of his former life in a Communist country. Peter was raised in a country in which, tragically, Communist repression permeates every segment of public and private life, and in which athletes, in particular, are exploited for the government's purposes. Peter did not choose to be born into such a system; but, when the time came to make a choice, he bravely chose to be free and to be an American.

If Peter's only interest was to compete in international competition and the 1988 Olympics, he could become a West German citizen automatically and swim for West Germany. But that is not his sole motivation. As Peter says, "I want to become an American, not a West German."

I am proud to sponsor legislation to assist this fine young man in his quest for American citizenship. His story is an inspiration to us all and an embodiment of the American dream in its finest sense. He has demonstrated his devotion to American ideals and his desire and willingness to work hard to succeed in this country. I believe Peter will make an outstanding citizen, and I urge my colleagues to support the bill vigorously and to expedite its movement to final passage.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record as follows:

"S. 2271

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding paragraphs (14) and (28) of section 212(a) of the Immigration and Nationality Act, for purposes of such Act. Jens-Peter Berndt shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enact-

BEST COPY AVAILABLE

ment of this Act. Upon the granting of permanent residence to such alien as provided for in this Act, the number of refugee admissions available for adjustment of status of aliens under section 209(b) of such Act shall be reduced by one number.

"(b)(1) Jens-Peter Berndt shall be held and considered to have satisfied the provisions of section 316 of the Immigration and Nationality Act which relate to required periods of residence and physical presence within the United States and shall not be held or considered to be within any of the classes of persons described in section 313 of such Act.

"(2) Notwithstanding the provisions of section 310(d) of such Act, Jens-Peter Berndt may be naturalized at any time after the date of enactment of this Act if otherwise eligible for naturalization under this Act and the Immigration and Nationality Act."

COST

No cost would result from enactment of this bill.

REGULATORY IMPACT STATEMENT

In compliance with paragraph 11 (b) (1), rule XXVI of the Standing Rules of the Senate, it is hereby stated that the committee anticipates that the bill will have no additional direct regulatory impact inasmuch as it affects just one individual.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (S. 2271) should be enacted.

O

BEST COPY AVAILABLE